

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIFFANY PATTERSON,

Plaintiff,

Case No. 1:12-cv-825

v

HON. JANET T. NEFF

NATIONAL RAILROAD
PASSENGER CORP. d/b/a AMTRAK,

Defendant.

_____ /

OPINION AND ORDER

Plaintiff filed this negligence action in state court, seeking damages for personal injuries, and Defendant removed the case to this Court. After difficulties securing discovery and Plaintiff's failure to respond to Defendant's motions and the Court's orders, Defendant filed a motion to dismiss Plaintiff's complaint for failure to prosecute, pursuant to FED. R. CIV. P. 41(b) (Dkt 64). Plaintiff responded to the motion (Dkts 79, 85), and Defendant replied to the response (Dkts 82, 86). On November 25, 2013, the Magistrate Judge issued a Report and Recommendation (R&R) (Dkt 87), recommending that this Court grant Defendant's Motion to Dismiss. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Dkt 88). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

The full procedural history of this case is well-documented in the Magistrate Judge's successive orders and the Report and Recommendation. In her objection to the Report and

Recommendation, Plaintiff “acknowledges her shortcomings” and does not contest the facts upon which the Magistrate Judge recommends dismissal. Plaintiff offers varied explanations for the failure to prosecute her case—her indigence, geographical distance from her attorney, and personal distractions, explanations that were also presented to the Magistrate Judge. However, Plaintiff’s claims are not supported by an affidavit from Plaintiff or any other supporting documentation. Plaintiff demonstrates no factual or legal basis that would establish good cause for her failure to prosecute her case, and the Court agrees with the Magistrate Judge’s four-factor analysis for assessing dismissal orders and the recommendation to dismiss this case. Having determined that dismissal is warranted, the Court further determines that it is appropriate to rescind the October 7, 2013 Order (Dkt 83), which required Plaintiff to pay sanctions in the amount of \$3,341.50.

Accordingly:

IT IS HEREBY ORDERED that the Objections to the Report and Recommendation (Dkt 88) are DENIED, and the Report and Recommendation (Dkt 87) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendant’s Motion to Dismiss for Failure to Prosecute (Dkt 64) is GRANTED, and Plaintiff’s Complaint is **dismissed with prejudice**.

IT IS FURTHER ORDERED that the October 7, 2013 Order (Dkt 83) is RESCINDED.

Dated: December 18, 2013

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge